

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AMERICAN ATHEISTS, INC., STEVE WALKER
THE LAW OFFICES OF DENIS G. VATSIS, P.C.,
and DENIS G. VATSIS,

Plaintiffs,

-vs-

Case No. 06-11696
Judge Avern Cohn

CITY OF DETROIT DOWNTOWN
DEVELOPMENT AUTHORITY,

Defendant,

and

ST. JOHN'S EPISCOPAL CHURCH,

Intervening Defendant.

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ORDER RE: STATEMENT OF FACTS NOT IN DISPUTE

This is a First Amendment case. Before the Court are summary judgment motions. On May 7, 2007 the Court held a status conference to review the statements of the material facts not in dispute proffered by the parties which are the predicate for the Court's analysis of the legal issues.

A.

The following appears to be the basic material facts which are not in dispute:

1. American Atheists, Inc.; Steve Walker; the Law Offices of Denis G. Vatsis, P.C., and Denis G. Vatsis, plaintiffs, have standing.
2. The defendant, City of Detroit Downtown Develop Authority (DDA), is a public

corporation. The funds it distributes are derived from taxes levied by the City of Detroit and other units of government.

3. The Intervening Defendant, St. John's Episcopal Church, is a religious organization and an ecclesiastical corporation under Michigan Law.

4. In June, 2003 the Detroit City Council adopted a Downtown Development Authority program entitled the "Lower Woodward Façade Improvement Program" (FIP).¹

The FIP was adopted, in part, in anticipation of a large influx of visitors to the City of Detroit for the National Football League's Superbowl scheduled for February 2006.

5. The FIP guidelines authorized the DDA to allocate its funds to eligible applicants by contract. The contracts provided for the payment directly to approved applicants of fifty percent of the cost of qualified improvement to the façades of their structures and parking lots with a maximum of \$150,000.00 for each structure and \$30,000.00 for each parking lot.

6. A description of the FIP and the criteria/eligibility for funding are set forth in Exhibit A.

7. Pursuant to the FIP, the DDA has either allocated funds or intends to allocate funds to ninety-one (91) entities. Three (3) of these entities -- Central United Methodist Church, Second Baptist Church, and St. John's Episcopal Church -- are religious organizations (i.e. churches) and ecclesiastical corporations under Michigan law.

¹ The FIP was adopted as an amendment to the Restated City of Detroit Downtown Development Authority Tax Increment Financing Plan and Development Plan for Development Area No. 1.

8. A total of nine (9) contracts for the following improvements in the following amounts were approved for the three (3) ecclesiastical corporations :

RECIPIENT	STRUCTURE & NATURE OF IMPROVEMENT	AMOUNT
Central United Methodist Church	<u>Sanctuary at 23 E. Adams:</u> repair and refinishing of entry doors; cleaning and repair of façade; cleaning and repair of sign; refurbishing of steeple clock and various light fixtures; and rebuilding of masonry planter	\$133,708.00 ²
Central United Methodist Church	<u>Activities Building at 31 E. Adams:</u> repair of granite panels; replacement of overhang; repair and cleaning of masonry walls; refurbishment of lighting; expansion of entranceway; and installation of new doors	\$118,985.95
Central United Methodist Church	<u>Parking lot at 28 E. Elizabeth:</u> installation of an irrigation system; landscaping; and installation of fencing	\$30,000.00
Central United Methodist Church	<u>Parking lot at 2026 Woodward:</u> installation of irrigation system; landscaping; and installation of fencing	\$30,000.00

² Minus the expense for an altar light, which was not approved.

Second Baptist Church	<u>Sanctuary at 441 Monroe:</u> replacement of brick front; metal coping repaired or replaced; stained glass windows repaired, re-framed with protective glass coverings; installation of exterior wood doors; painting of building trim, doors, and storm gutters; replacement of church sign	\$150,000.00
Second Baptist Church	<u>Education Building at 461 Monroe:</u> cleaning and repair of precast panels; removal and caulking of glass; installation of a new planter box, a new concrete ramp, a new storefront; and removal of front canopy	\$82,008.88
Second Baptist Church	<u>Parking lot at 421 Monroe:</u> installation of fence with operable gate; new bumpers; lot surfacing and striping	\$30,000.00
Second Baptist Church	<u>Rental Property at 419 Monroe (a nightclub):</u> cleaning and repair of exterior of building; cleaning and repair of front door; replacement of windows, replacement of fabric awning	\$78,368.50

St. John's Episcopal Church	<u>Sanctuary and parking lot at 50 E. Fisher Hwy:</u> Repair of stone wall; repair of fence; installation of canopy over entranceway; replacement of sign; cleaning and repair of stained glass windows, with installation of protective covering; replacement of trees and bedding in parking lot	\$83,851.75
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B.

It is important for the Court to determine whether or not there are material facts in dispute that must be resolved by a fact-finder. Accordingly, if appropriate, the parties are urged to agree upon and submit additional material facts which are not in dispute. In addition, each of the parties may file a supplemental statement of material facts which are in dispute and which must be resolved by a fact-finder.

The parties shall have 10 days in which to respond.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: May 18, 2007

I hereby certify that a copy of the foregoing document was mailed to the parties of record on this date, May 18, 2007, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160